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AMEND Senate Bill No. 475*

House Bill No. 797

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 16, Chapter 15, is amended by adding Sections 2 through 10 as a new Part 51.

SECTION 2. (a) For the purpose of determining the compensation of a general sessions judge, the counties of this state are divided into eight (8) classes as follows:

(1) Counties having a population of more than sixty-seven thousand (67,000) constitute counties of the first class;

(2) Counties having a population of more than forty-nine thousand (49,000) but not more than sixty-seven thousand (67,000) constitute counties of the second class;

(3) Counties having a population of more than thirty-eight thousand (38,000) but not more than forty-nine thousand (49,000) constitute counties of the third class;

(4) Counties having a population of more than thirty thousand (30,000) but not more than thirty-eight thousand (38,000) constitute counties of the fourth class;

(5) Counties having a population of more than twenty-four thousand (24,000) but not more than thirty thousand (30,000) constitute counties of the fifth class;

(6) Counties having a population of more than nineteen thousand (19,000) but not more than twenty-four thousand (24,000) constitute counties of the sixth class;

(7) Counties having a population of more than ten thousand (10,000) but not more than nineteen thousand (19,000) constitute counties of the seventh class; and

(8) Counties having a population of less than ten thousand (10,000) constitute counties of the eighth class.

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(b) The class into which a county falls shall be determined by the 1990 federal census and any subsequent federal census or any special census conducted by the department of economic and community development.

(c)(1) For the purpose of determining the compensation of a general sessions judge who presides over a consolidated general sessions court consisting of two (2) or more counties, the populations of all counties served by the court shall be added together and the resultant sum shall be increased to the next higher classification for the purpose of determining the class of counties in accordance with subsection (a).

(2) Each county served by a consolidated general sessions court pays its proportional share of the compensation of the judge or judges of the consolidated court based on a ratio established by using the population of the county according to the latest available census compared to the population of the counties comprising the consolidated general sessions court using the latest available census.

(d)(1) If a county is in one (1) class as provided in this section on September 1 of the year in which a judge is elected to office, and after such date such county moves into another class on the basis of a subsequent federal census, the salary of such judge shall not be diminished during the time for which such judge was elected.

(2) If a county is in one (1) class as provided in this section on September 1, of the year in which a judge is elected to office and after such date, such county moves into another class on the basis of a subsequent census, the salary of such judge shall be determined by the higher classification for the remainder of the term for which the judge was elected.

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SECTION 3. (a) All general sessions judges in Class 1, 2, 3 or 4 counties shall devote full time to the duties of such office and shall be prohibited from the practice of law or any other employment which conflicts with the performance of their duties as judge.

(b) General sessions judges in Class 5 through Class 8 counties shall be considered part-time judges and shall not be prohibited from the practice of law or other gainful employment while serving as judge except to the extent such practice or employment constitutes a conflict of interest.

SECTION 4. (a) Effective September 1, 1998, the annual base salaries for general sessions judges shall be as follows:

- | | |
|-----------------------------------|--|
| (1) Counties of the first class | an amount equal to 100% of the salary of a circuit judge |
| (2) Counties of the second class | an amount equal to 90% of the salary of a circuit judge |
| (3) Counties of the third class | an amount equal to 80% of the salary of a circuit judge |
| (4) Counties of the fourth class | an amount equal to 70% of the salary of a circuit judge |
| (5) Counties of the fifth class | an amount equal to 60% of the salary of a circuit judge |
| (6) Counties of the sixth class | an amount equal to 50% of the salary of a circuit judge |
| (7) Counties of the seventh class | an amount equal to 40% of the salary of a circuit judge |
| (8) Counties of the eighth class | an amount equal to 30% of the salary of a circuit judge |

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(b)(1) In addition to the base salary provided by subsection (a), if a general sessions judge in a Class 2 county has or by operation of law obtains additional jurisdiction over juvenile, probate, domestic relations, or workers' compensation matters or any combination thereof, the general sessions judge shall receive an annual supplement of ten thousand dollars (\$10,000).

(2) In addition to the base salary provided by subsection (a), if a general sessions judge in a Class 3 or 4 county has or by operation of law obtains any of the following additional jurisdictions, the general sessions judge shall receive an annual supplement in the amounts indicated below:

- (A) Juvenile jurisdiction.....\$20,000
- (B) Probate10,000
- (C) Domestic relations10,000
- (D) Workers' compensation.....10,000

(3) Regardless of the kind or amount of additional jurisdiction a Class 3 judge may have, no such judge shall receive annual supplements in excess of twenty thousand dollars (\$20,000).

(4) Regardless of the kind or amount of additional jurisdiction a Class 4 judge may have, no such judge shall receive annual supplements in excess of thirty thousand dollars (\$30,000).

(c)(1) In addition to the base salary provided by subsection (a), if a general sessions judge in a Class 5, 6 or 7 county has or by operation of law obtains any of the following additional jurisdictions, the general sessions judge shall receive an annual supplement in the amounts indicated below:

- (A) Juvenile jurisdiction\$10,000

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- (B) Probate.....5,000
- (C) Domestic relations.....5,000
- (D) Workers' compensation.....5,000
- (E) Mental health commitments.....10,000

(2) Regardless of the kind or amount of additional jurisdiction a Class 5, 6 or 7 judge may have, no such judge shall receive annual supplements in excess of twenty thousand dollars (\$20,000).

(d)(1) In addition to the base salary provided by subsection (a), if a general sessions judge in a Class 8 county has or by operation of law obtains any of the following jurisdictions, the general sessions judge shall receive an annual supplement in the amounts indicated below:

- (A) Juvenile jurisdiction.....\$7,500
- (B) Probate.....2,500
- (C) Domestic relations.....2,500
- (D) Workers' compensation.....2,500

(2) Regardless of the kind or amount of additional jurisdiction a Class 8 judge may have, no such judge shall receive annual supplements in excess of ten thousand dollars (\$10,000).

(e) On July 1, 1999, the base salaries and supplements established by this section shall be adjusted in accordance with the provisions of subdivision (e)(2) to reflect the percentage of change in the average consumer price index (all items - city average) as published by the United States department of labor, bureau of labor statistics, between calendar year 1998 and calendar year 1999. Each succeeding July 1, a similar adjustment shall be made upon the

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percentage of change in the average consumer price index between the two (2) calendar years preceding July 1 of the year in which the adjustment is made. Provided, however, no reduction shall be made by way of adjustment on account of any decrease in the average consumer price index between the two (2) successive calendar years.

(2) For each one percent (1%) increase in the average consumer price index between two (2) successive calendar years, the base salaries and supplements shall be adjusted by one percent (1%). Annual adjustments shall be made upon the base salary and the supplements in this section.

(f)(1) The compensation, supplement and annual adjustment provisions of this section are to be construed as minimum levels. The compensation schedule established by this part is a comprehensive plan, and no salary supplement in excess of the supplements provided by this part shall be available to a general sessions judge unless expressly provided and funded by a private act.

(2) Nothing in this part shall be construed as prohibiting a county, by private act, from compensating its general sessions judge or judges at levels in excess of what is required by this part. Any private or public act in effect on September 1, 1998, that provides greater compensation for a general sessions judge than is required by this section shall, to the extent of the judge's amount of compensation, prevail over the provisions of this part, and the base salary of such judge shall be the salary paid to the holder of that office on August 31, 1998, pursuant to such public or private act plus a percentage increase thereto equivalent to the same percentage increase herein given by subsection (a) to a judge of a Class 6 county determined

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as of August 31, 1998. Nothing in this part shall prevent a county from establishing and funding the position of part time general sessions judge in a county with a full time general sessions judge.

(3) Nothing in this part may be construed to authorize annual adjustments based on both this part and a private act.

(g) Notwithstanding any provision of law or this part to the contrary, no judge of a general sessions court shall be paid a salary which is greater than the salary paid to a judge of a circuit court.

SECTION 5. The provisions of Tennessee Code Annotated, Section 16-15-5004 concerning jurisdictional matters shall continue to be effective on and after September 1, 1998, and the Tennessee Code Commission is directed to recodify that section in Part 51 established by this act.

SECTION 6. (a) Notwithstanding any other provision of law to the contrary, effective September 1, 1998, all persons occupying the office of general sessions judge shall be licensed to practice law in this state. Any person serving in the office of general sessions judge on August 1, 1998, who is not a licensed attorney may seek reelection to such position and serve as a general sessions judge as long as such person is continuously reelected. If a vacancy occurs in the office of a non-attorney general sessions judge elected pursuant to this section, such vacancy shall be filled by a person licensed to practice law and the qualifications set out in the first sentence of this section shall thereafter apply to such position.

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(b) Notwithstanding the provisions of this section, if a vacancy occurs in the office of general sessions judge and no licensed attorney appears at the meeting when the vacancy is being filled by the county legislative body and offers to become a candidate for the office, the vacancy may be filled by a person not licensed to practice law. If no licensed attorney qualifies for an election being held to fill the office of general sessions judge, or the only attorney candidate legally withdraws, the county election commission shall extend the qualification deadline for a period of ten (10) days, during which period persons not licensed to practice law may qualify to seek the office of general sessions judge.

SECTION 7. Each county shall be responsible for paying the base salary, any supplements and any annual adjustments for all of the general sessions judges in such county. To that end, the provisions of Tennessee Code Annotated, Section 16-15-5006 shall continue to be effective on and after September 1, 1998, and the Tennessee Code Commission is directed to recodify that section in Part 51 established by this act.

SECTION 8. The administrative director of the courts shall also serve as the administrative director of the Tennessee general sessions judges' conference. The administrative director of the courts may serve the conference with existing staff or may, with a portion of the proceeds of the litigation tax earmarked to the administrative director's office, employ such additional staff as may be necessary to adequately serve the general sessions judges. In order to defray the additional expenses the administrative director of the courts will incur in adequately serving the general sessions judges, there is levied a litigation tax of one dollar (\$1.00) on each civil case filed in general sessions court, or in a court where the general

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sessions judge serves as judge. The litigation tax imposed by this section does not apply to cases in juvenile court. The revenue generated by such tax shall be transmitted to the state treasurer for deposit, and fifty percent (50%) of the proceeds shall be credited to the account of the administrative director of the courts to be used to defray the expenses of serving the general sessions courts and the Tennessee general sessions judges' conference. The remaining fifty percent (50%) of the proceeds shall be used to defray the cost of retirement pay of retired general sessions judges.

SECTION 9. (a) If added jurisdiction to hear probate, domestic relations or workers' compensation cases is given to a general sessions court by private act, cases shall be filed in either the circuit court clerk's or clerk and master's office unless otherwise provided by private act. Such general sessions court which has been given the added jurisdiction to hear such cases shall be assigned cases for hearing by agreement of the general sessions court judges and the circuit court judges and the chancellors.

(b) If added jurisdiction in juvenile cases is given to a general sessions court by private act, cases shall be filed in the clerk's office where such cases are presently filed unless otherwise provided by private act.

SECTION 10. The Tennessee code commission shall publish in this code an index of acts pertaining to the jurisdiction of courts of general sessions by county and compile a tabulation of such jurisdiction by court.

SECTION 11. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of

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the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 12. This act shall take effect September 1, 1998, the public welfare requiring it.

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